

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

JERRY STREET

PLAINTIFF

v.

Cause No. 4:21-CV-76-SA-JMV

A.W. LEE, ET AL.

DEFENDANTS

ORDER CONSTRUING INITIAL PLEADING AS A *BIVENS* COMPLAINT

The court takes up, *sua sponte*, the issue of the nature of this case. Upon initial review, when considering part of the relief the plaintiff requested (return of “good time” credits), it appeared to the court that this suit was a petition for writ of *habeas corpus* proceeding under 28 U.S.C. § 2241. Upon further review, however, the court has concluded that the case primarily seeks redress for conditions of confinement in a federal institution, which is best addressed through a suit filed under *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388, 389, 91 S. Ct. 1999, 2001, 29 L. Ed. 2d 619 (1971). As such:

- (1) the Clerk of the Court is DIRECTED to cause the docket to reflect that the instant case has been brought under *Bivens*;
- (2) In addition, the Clerk of the Court is DIRECTED to REFUND Mr. Street’s \$5.00 *habeas corpus* filing fee to his inmate account;
- (3) The Clerk of the Court is also DIRECTED to send the plaintiff a copy of the court’s form Motion to Proceed In Forma Pauperis; and
- (4) The plaintiff is ORDERED, within 21 days, to either complete and return the form motion – or pay the filing fee in full. The court will address that motion using the procedure required under the Prison Litigation Reform Act for a *Bivens* case.

SO ORDERED, this, the 8th day of November, 2021.

/s/ Sharion Aycock
U. S. DISTRICT JUDGE